



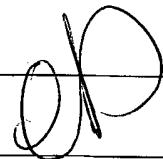
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,852	12/13/2001	Rodger H. Rast	CRALog_02	7424
7590	09/09/2004		EXAMINER	
RASTAR CORPORATION			TOOMER, CEPHIA D	
11230 GOLD EXPRESS DR.				
STE. 310			ART UNIT	PAPER NUMBER
GOLD RIVER, CA 95670-4484			1714	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/016,852	RAST ET AL. 
	Examiner Cephia D. Toomer	Art Unit 1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 May 2004.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12, 14, 51-53 and 57-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 51-58, 61 and 62 is/are allowed.
- 6) Claim(s) 1, 5, 14 and 59 is/are rejected.
- 7) Claim(s) 2-4, 6-12 and 60 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

This Office action is in response to the amendment filed May 10, 2004 in which claims 1-6, 12, 14 and 51-53 were amended and claims 57-62 were added.

1. A substitute specification excluding the claims is required pursuant to 37 CFR 1.125(a) because the number and nature of the amendments render it difficult to consider the application and to arrange the papers for printing.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

2. It should be noted that the drawings contain two Figure 5.
3. The previous rejections of the claims under 35 USC 112, second paragraph are withdrawn in view of the amendment to the claims.
4. The rejection of the claims under 35 USC 102(b) as anticipated by Altman is withdrawn in view of the amendment to the claims and Applicant's arguments.

5. The rejection of the claims under 35 USC 102(b) as anticipated by Kincaid is withdrawn in view of the amendment to the claims and Applicant's arguments.
6. The rejection of the claims under 35 USC 103(a) as unpatentable over Burton is withdrawn in view of Applicant canceling claim 13 and amending claim 14.
7. The rejection of the claims under 35 USC 103(a) as unpatentable over Altman is withdrawn in view of applicant canceling claim 13.
8. The rejection of the claims under 35 USC 103(a) as unpatentable over Kincaid is withdrawn in view of applicant amending the claims.
9. The rejection of the claims under 35 USC 103(a) as unpatentable over Kincaid further in view of Comas is withdrawn in view Applicant's amendment to the claims.
10. Claim 14 is rejected under 35 USC 102(b) as being anticipated by Chandaria (US 5,958,090).

Chandaria teaches a firelog that may be severed or snapped apart and burned as separate parts (see abstract; Figs. 2, 3 and 4; claims 6-12).

Accordingly, Chandaria teaching all the limitations of the claim, anticipates the claim.

11. Applicant argues that the examiner has not considered all of the elements of the present invention.

The preamble elements in a Jepson-type claim "are implied admitted to be old in the art." *In re Ehrreich* 909 USPQ 504 (CCPA 1979); therefore, the preamble is treated as prior art (see MPEP 2128.02). The only limitation in applicant's claim is "forming said

manufactured fire log as complementary shapes." The other recitations that appear in the claim are functional language or alternative language. Chandaria teaches that the fire log may be severed or snapped apart thus forming two complementary parts and may be burned as a single fire log or as two separate fire logs. Applicant's claim language "that may be nested" is not positive claim language and is not given patentable weight.

***Claim Rejections - 35 USC § 112***

12. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

13. Claim 59 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original specification does not support "the area of the firelog covered by the shield means when the shield means is configured with a user-selectable size."

14. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

15. Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 15, it is not clear what applicant is claiming. Clarification and correction are required.

Claim 5 is rejected because it is not clear what the last 3 lines of the claim mean. Clarification and/or correction are required.

16. Claims 2-4, 6-12 and 60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to teach the limitations regarding the combustion shield.

17. Claims 51-58 and 61-62 are allowable because the prior art fails to teach or suggest the claimed firelog wherein the shield is configured to provide a different burning rate.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cephia D. Toomer  
Primary Examiner  
Art Unit 1714

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